



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

May 7, 1998

Ms. Kristi A. Taylor  
Neiman & Barnes, L.L.P.  
P.O. Box 777  
Lewisville, Texas 75067

OR98-1178

Dear Ms. Taylor:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 115286.

The City of Lewisville (the "city"), which you represent, received a request for the "book-in" sheets of every arrestee housed in the Lewisville jail, including the name, race, citizenship, age, address, place of arrest, driver's license number, social security number, and the charge against each subject. You state that you will release most of the information to the requestor. However, you assert that the social security numbers and driver's license numbers are excepted from disclosure under sections 552.101 and 552.130 of the Government Code. You also state that you will not provide the requestor with on-going, continuing access to the requested information. We have considered the exceptions you claim and reviewed the submitted information.

We initially recognize that you are not obligated under the Open Records Act to provide the requestor with information to be created in the future. While chapter 552 does not prohibit a governmental body from voluntarily complying with a standing request for information, neither does chapter 552 require a governmental body to comply with a standing request for information to be collected or prepared in the future. *See* Attorney General Opinion JM-48 (1983). Additionally, chapter 552 does not require a governmental body to disclose information that did not exist at the time the request was received. *Economic Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.--San Antonio 1978, writ dismissed); Open Records Decision No. 452 (1986) at 3. As the requestor seeks information which has not yet been created, the city need not comply with this portion of the request.

The Seventy-fifth Legislature added section 552.130 to the Open Records Act which governs the release and use of information obtained from motor vehicle records. Section 552.130 provides in relevant part as follows:

(a) Information is excepted from the requirement of Section 552.021 if the information relates to:

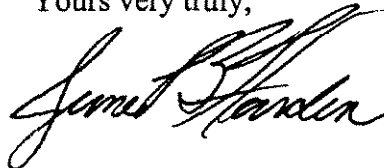
(1) a motor vehicle operator's or driver's license or permit issued by an agency of this state[.]

Therefore, you must withhold Texas driver's license numbers pursuant to section 552.130.

We note that social security numbers may be withheld in some circumstances under section 552.101 of the Government Code.<sup>1</sup> A social security number or "related record" may be excepted from disclosure under section 552.101 in conjunction with the 1990 amendments to the federal Social Security Act, 42 U.S.C. § 405(c)(2)(C)(viii)(I). *See* Open Records Decision No. 622 (1994). These amendments make confidential social security numbers and related records that are obtained and maintained by a state agency or political subdivision of the state pursuant to any provision of law enacted on or after October 1, 1990. *See id.* We have no basis for concluding that any of the social security numbers in the submitted records are confidential under section 405(c)(2)(C)(viii)(I), and therefore excepted from public disclosure under section 552.101 of the Open Records Act on the basis of that federal provision. We caution, however, that section 552.353 of the Open Records Act imposes criminal penalties for the release of confidential information. Prior to releasing any social security number information, you should ensure that no such information was obtained or is maintained in the records pursuant to any provision of law, enacted on or after October 1, 1990.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



June B. Harden  
Assistant Attorney General  
Open Records Division

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<sup>1</sup>Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes.

JBH/glg

Ref.: ID# 115286

Enclosures: Submitted documents

cc: Mr. Steven G. King  
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(w/o enclosures)